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FILED WITH THE BOARD OF  
PSYCHOLOGICAL EXAMINERS  
ON 10-22-97

STATE OF NEW JERSEY  
DEP'T OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF PSYCHOLOGICAL EXAMINERS  
DOCKET NO.

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IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF LICENSE OF : ADMINISTRATIVE ACTION  
HARVEY M. MUSIKOFF, Ph.D. :  
LICENSED TO PRACTICE PSYCHOLOGY : COMPLAINT  
IN THE STATE OF NEW JERSEY :  
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PETER VERNIERO, ATTORNEY GENERAL OF NEW JERSEY, by Joan D. Gelber, Deputy Attorney General, with offices at 124 Halsey Street, Newark, New Jersey 07101, by way of Complaint says:

GENERAL ALLEGATIONS

1. Complainant Attorney General of New Jersey is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h) and 45:1-14 et seq.

2. The New Jersey State Board of Psychological Examiners is charged with the duty and responsibility of regulating the practice of psychology in the State of New Jersey pursuant to N.J.S.A. 45:14B-1 et seq.

3. Respondent is the holder of license number SI02095 and has been licensed to practice psychology during all times pertinent herein. He maintains professional offices at 1 Evans Drive, Princeton Oaks, Princeton Junction, NJ 08550.

4. Respondent offered professional psychology services to numerous patients in a manner violative of pertinent laws and rules operative at the time. Said rules in effect prior to November 1, 1993 included those set forth at Attachment A. Said forms of prohibited conduct are cited, as applicable, in the Counts pertinent to that time period. Said conduct continued to be proscribed under the revised rules adopted effective November 1, 1993.

COUNT 1

1. Complainant repeats the General Allegations.

2. On or about May 1988 respondent undertook to provide psychological services to Mrs. L.J.<sup>1</sup> He represented that he would charge a professional fee of \$90 per treatment session, and would accept assignment of benefits from her insurance carrier.

3. Notwithstanding the representation regarding fees to be charged, respondent submitted bills to the insurance carrier for \$100 per treatment session.

4. Respondent provided professional services to Mrs. L.J. from 5/19/88 through 12/15/88. During approximately July 1989 respondent contacted Mrs. L.J. and stated that he had misplaced her insurance forms and requested her to come to his office to sign another so that he could submit bills for a balance which he claimed to be due.

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<sup>1</sup>Patient identity is redacted as to all patients listed herein to preserve confidentiality. Full identification is being provided to respondent at the time of service of this Complaint.

5. Mrs. L.J. relied upon respondent's representations and came to his office, whereupon she was given another Assignment of Benefits form to sign. The form contained no listing or dates of professional services and the trusting client signed it in blank.

6. In fact, there was no outstanding balance due regarding services to Mrs. L.J. Respondent deliberately obtained the form through deceptive means and then utilized the form which Mrs. L.J. had signed in blank to submit to the carrier a claim dated July 22, 1989 seeking \$3,000 in payment for purported services to Mrs. L.J. for 30 treatment sessions purportedly provided between January 5 and July 22, 1989.

7. Upon inquiry from the insurance carrier regarding records to justify the fee claimed, respondent engaged in various forms of unethical conduct, including fabrication an entire set of patient records seeking to authenticate purported services to L.J.

8. Upon later inquiry, respondent falsely claimed to have rendered extensive unbilled professional services to Mr. R.J. (Mrs. L.J.'s husband, deceased in September 1988), which respondent sought to collect under the name of L.J.

9. The abovesaid conduct manifests numerous forms of fraud, deception and misrepresentation and professional misconduct, and failure of the continuing obligation to maintain good moral character, all in violation of N.J.S.A. 45:1-21 (b), (e) and (h); N.J.S.A. 45:14B-24(f); and N.J.S.A. 45:14B-14; N.J.A.C. 13:42-4.1(a)(viii)4 and -4.1(a)(xxi)1 and (xxi)2. Each instance constitutes a separate transaction and a separate offense.

## COUNT 2

1. Complainant repeats the General Allegations and the allegations of Count 1.

2. On or about January 1989, respondent undertook to provide individual and family therapy to the family of Mr. D.A., including to his children D.A., Jr., S.A., and N.A.

3. Respondent thereafter submitted Assignment of Benefit forms for each patient, alleging that respondent had provided individual therapy when several of the sessions had in fact been for family therapy.

4. In addition, respondent billed each such session at a fee of individual psychotherapy at \$100/session although respondent knew, or should have known, that it is accepted standard of practice that family therapy sessions of 2 or more persons were to be billed not at a multiple of individual psychotherapy rates but at a lesser per-person rate or at a flat per session rate.

5. The abovesaid forms of conduct constitute fraud, deception and misrepresentation, professional misconduct, and failure of the continuing obligation to maintain good moral character, all in violation of N.J.S.A. 45:1-21 (b), (e) and (h), and N.J.S.A. 45:14B-24(f) and N.J.S.A. 45:14B-14; N.J.A.C. 13:42-4.1(a)1(xvii)4 and -4.1(a)1(xxi)(1) and (xxi)2. Each instance constitutes a separate transaction and a separate offense.

## COUNT 3

1. Complainant repeats the General Allegations and the allegations of Counts 1 and 2.

2. On or about March 3, 1989 respondent undertook to provide family therapy services to Mrs. J.S. and her husband S.S. and their children A.S. and E.S.

3. Respondent thereafter submitted Assignment of Benefit forms for each patient, alleging that respondent had provided individual therapy when at least 8 of the 10 sessions billed had in fact been for family therapy for 2 or more persons per session.

4. In addition, respondent billed each such session at a fee of \$100/session although respondent knew, or should have known, that it is accepted standard of practice that family therapy sessions of 2 or more persons were to be billed not at a multiple of individual psychotherapy rates but at a lesser per-person rate or at a flat per session rate.

5. The abovesaid forms of conduct constituted fraud, deception and misrepresentation, professional misconduct, and failure of the continuing obligation to maintain good moral character, all in violation of N.J.S.A. 45:1-21 (b), (e) and (h), and N.J.S.A. 45:14B-24(f) and N.J.S.A. 45:14B-14; N.J.A.C. 13:42-4.1(a)1(xvii)4 and -4.1(a)1(xxi)1 and (xxi)2. Each instance constituted a separate transaction and a separate offense.

COUNT 4

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 3.

2. On or about June 16, 1988 respondent undertook to provide individual psychotherapy services to M.K. and continued to do so through approximately July 24, 1989.

3. On or about July 10, 1988 respondent undertook to provide individual psychotherapy services to K.K., the father of M.K., and continued to do so through approximately July 29, 1989.

4. Provision of individual psychotherapy to M.K. when concurrently treating his father in the circumstances herein constituted a dual interest contrary to accepted standards of practice and proscribed by Board rule N.J.A.C. 13:42-4.1(a)1(xvii)4 and 5.

5. Said conduct constituted professional misconduct and failure to comply with a Board rule in violation of N.J.S.A. 45:1-21 (b), (e) and (h). Each instance constituted a separate transaction and a separate offense.

#### COUNT 5

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 4.

2. On October 13, 1993 the Family Court issued an Order in the case of M. v. M. requiring that the parties submit to psychological testing and counseling in the course of divorce and custody proceedings. Respondent was selected by the parties to provide said professional services to the parents Wm. and D. M. and to their son C.M.

3. Respondent engaged in numerous forms of misconduct in connection with said assignment, including the following:

(a) Respondent commenced said evaluations in October 1993 but failed to provide timely evaluation reports.

(b) Respondent undertook to provide purported psychotherapy to Wm. and/or to D. M. individually subsequent to the evaluation and before rendering his reports. Respondent knew or should have known that such sequence results in a dual relationship or conflict of interest, detrimental to a psychologist-patient relationship and in violation of N.J.A.C. 13:42-4.1(a)1(viii)4 and (viii)5; on and after November 1, 1993, such conduct was in violation of N.J.A.C. 13:42-10.13.

(c) Respondent presented an untimely report for D.M. and an untimely report for Wm. M., each dated February 1994, bearing a cover letter dated December 18, 1993.

(d) Respondent's report regarding D. M. included large sections copied verbatim from and without attribution to a computer-scored interpretation of the Millon Clinical Multiaxial Inventory-II, and from a written interpretation of a Minnesota Multiphasic Inventory-2 report prepared by a California practitioner uninvolved in the client's interview and examination.

(e) Respondent deliberately deleted from his plagiarized copying of the two test interpretations virtually all references to strengths listed as ascribable to personality structures similar to that of D. M. and stressed only references to weaknesses.

(f) Respondent's report regarding Wm. M. included large sections copied verbatim from and without attribution to a computer-scored interpretation of the Millon Clinical Multiaxial Inventory-II, and from a written interpretation of a Minnesota

Multiphasic Inventory-2 report prepared by a California practitioner uninvolved in the client's interview and examination.

(g) Respondent deliberately deleted virtually from his copying of the two test interpretations virtually all references to weaknesses listed as ascribable to personality structures similar to that of Wm. M. and stressed only strengths.

(h) Respondent's report for Wm. M. and the report for D.M. failed to include any diagnosis.

(i) Respondent failed to prepare a psychological evaluation report for the child C., whom he interviewed and tested and whose custody and visitation was at issue in the court proceedings.

(j) Respondent engaged in numerous billing irregularities, including billing for a separate individual psychotherapy session in addition to a family session when only one session had taken place; billing for more persons participating in a family session than was the case; failing to provide a billing statement to Mrs. M.; billing for psychotherapy in addition to family therapy for the same individuals prior to issuance of the Court-ordered evaluation report; and billing Mrs. M.'s insurance carrier for a visit notwithstanding that the visit had been already paid in full by check.

4. The abovesaid forms of conduct, individually or cumulatively, constitute fraud, deception and misrepresentation and/or gross or repeated negligence and/or professional misconduct, and failure of the continuing obligation to maintain good moral character, all in violation of N.J.S.A. 45:1-21 (b), (e)



and (h), and N.J.S.A. 45:14B-24(f) and N.J.S.A. 45:14B-14. Prior to November 1, 1993, such conduct violated N.J.A.C. 13:42-4.1(a)1(ix); N.J.A.C. 13:42-4.1(a)1(xvii)4; N.J.A.C. 13:42-4.1(a)1(xvii)5; N.J.A.C. 13:42-4.1(a)1(xxv)2; and N.J.A.C. 13:42-4.1(a)1(xxv)5. Effective as of November 1, 1993, replacement rule N.J.A.C. 13:42-10.4(b) required and continues to require that a licensee shall meet professional responsibilities to the Board and to the public as determined by accepted standards of practice, law or rules. Replacement rule 13:42-10.4(5) required and continues to requires that a licensee shall make reasonable use of professional, technical and administrative resources that best serve the interests of consumers. Each instance of violation of law or rule constitutes a separate transaction and a separate offense.

COUNT 6

1. Complainant repeats the General Allegations and the allegations of Counts 1 through 5.

2. N.J.A.C. 13:42-4.1(a)1(ix), in effect at all times pertinent to this Complaint and until it was replaced effective November 1, 1993 by rule 13:42-8.1, required and continues to require that a psychologist keep a patient record which accurately reflects the patient's contact with the practitioner.

3. Respondent routinely prepared grossly inadequate patient records, and/or no patient records, including but not limited to the records of R.J., D.A., D.A. Jr., S.A., N.A., J.S., S.S., A.S., E.S., M.K., M.N., Wm.M., D.M., and C.M.

4. Said conduct constituted professional misconduct and failure to comply with Board rule, in violation of N.J.S.A. 45:1-21(e) and (h). Each instance constituted a separate transaction and a separate offense.

WHEREFORE, Complainant demands the entry of an Order against respondent including the following:

1. The suspension or revocation of the license heretofore issued to respondent to practice psychology in the State of New Jersey.

2. Imposition of penalties for each separate unlawful act as set forth in Count 1 through 6 above;

3. Imposition of costs, including investigative costs, fees for expert and fact witness expenses, and costs of trial including transcripts.

4. Reimbursement to patients/examinees and/or third party payors and/or the payor agency of all monies received for acts found to be unlawful in the circumstances alleged herein;

5. Direction to cease and desist from the unlawful conduct proved; and

6. Such other and further relief as the Board of Psychological Examiners shall deem just and appropriate.

PETER VERNIERO  
ATTORNEY GENERAL OF NEW JERSEY

By: 

Jean D. Gelber  
Deputy Attorney General

Date: October 22, 1997

ATTACHMENT AEXCERPTS OF RULES OF THE BOARD OF PSYCHOLOGICAL EXAMINERS  
IN EFFECT UNTIL NOVEMBER 1, 1993

N.J.A.C. 13:42-4.1(a)1(ix) proscribed failure to maintain a record for each patient which accurately reflects the patient contact with the practitioner.

N.J.A.C. 13:42-4.1(a)1(xvii)1 proscribed participation in a conflict of interest which includes dual relationships which could limit objectivity, impair professional judgment or increase risk of exploitation.

N.J.A.C. 13:42-4.1(a)1(xvii)4 proscribed participation in a conflict of interest which includes exploitation of the trust and dependency of clients.

N.J.A.C. 13:42-4.1(a)1(xvii)5 proscribed failure of a psychologist to inform all parties involved of a conflict of interest which has arisen and of the nature and direction of the loyalties and responsibilities involved. It called for disciplinary sanction for failure to take appropriate severance action.

N.J.A.C. 13:42-4.1(a)1(xxi)1 and (xxi)2 proscribed failure to safeguard the best financial interests of the client and proscribed failure to assist clients to understand financial arrangements in advance of incurring a financial obligation to the psychologist including but not limited to specifying what the fee is, whether and to what extent it will be covered by insurance or by other third party coverage.

N.J.A.C. 13:42-4.1(a)1(xxv)2 proscribed failure to make reasonable use of professional, technical and administrative resources that best serve the interests of consumers. A psychologist was responsible for recognizing his or her areas of competence in the profession and for knowing when to refer appropriately to practitioners of related or other professions.

N.J.A.C. 13:42-4.1(a)1(xxv)5 proscribed inability by a licensee to demonstrate that the validity of the programs and procedures used in arriving at interpretations are based on

appropriate evidence offering test scoring interpretation services. The public offering of an automated test interpretation was considered as a professional-to-professional consultation (and not as a substitute for the writing of a professional evaluation report based upon clinical interview and other pertinent sources of information).